

REMARKS/ARGUMENTS

Reconsideration and withdrawal of the rejections of the application are respectfully requested in view of the remarks herewith, which place the application into condition for allowance.

I. STATUS OF THE CLAIMS AND FORMAL MATTERS

Claims 24-44 and 53 are currently pending.

II. TELEPHONE INTERVIEW

Applicants' representative thanks the Examiner for granting the telephone interview of January 15, 2009. Applicants' representative sought additional information as to what information would be necessary to include in the declaration of the inventor to antedate the Ramanathan reference. The Examiner stated that at least the declaration must be made by both of the inventors. Applicants' representative pointed out the declaration mapped the provided source code to the claim limitations.

The Examiner, in the prior Office Action, **agreed** the declaration provided sufficient evidence of conception prior to April 9, 2002. However, the Examiner contended further evidence of reduction to practice (ROP) is required. The inventors must declare the proffered source code worked and was repeatable. Moreover, ROP must show the source code operated in a computer environment and was successful. While the Examiner some examples of evidence sufficient to show ROP, no agreement was reached on precisely what could or would be sufficient on the present application.

III. REJECTIONS UNDER 35 U.S.C. §102

Claims 24-44, and 53 were rejected under 35 U.S.C. §102(e) as allegedly anticipated by U.S. Patent No. 7,174,382 to Ramanathan et al. (hereinafter, merely “Ramanathan”).

Applicants respectfully traverse this rejection.

Ramanathan is not prior art to the present invention because the present invention was conceived and reduced to practice prior to Ramanathan’s filing date of April 9, 2002.

Applicants submit herewith a Declaration of joint inventors Glen Van Datta and Anthony Mai under 37 C.F.R. 1.131 in support of their contention that their invention was conceived and reduced to practice prior to the priority date of Ramanathan.

As is clear from the Declaration, Anthony Mai, an inventor of the instant application, sent an e-mail to G. Van Datta, the other inventor of this application, with an attachment titled “Multi-Channel Multi-Party Audio Streaming Protocol” (“Protocol”), disclosing the elements of the present invention prior to the Ramanathan filing date of April 9, 2002. The e-mail and attachment thereto are attached to the Declaration as Exhibit A.

The invention was reduced to practice in a computer implementation as evidenced by the Source Code attached to the Declaration as Exhibits B and C. In the Declaration, Mr. Van Datta and Mr. Mai show the correspondence between functions of Exhibits B and C and the elements recited in claim 24 of the present application.

Moreover, Exhibit D includes computer “screen captures” resulting from execution of the source code and algorithms of Exhibit B and Exhibit C in a computer environment. The

resulting “screen captures” of Exhibit D were successful, operable, and repeatable. Exhibit D is further evidence that the invention was reduced to practice.

In view of the accompanying Declaration under 37 C.F.R. §1.131, it is clear the present invention was conceived prior to the filing date of the Ramanathan reference and reduced to practice. Therefore, Ramanathan is not prior art to the present application.

Thus, it is believed that the rejections of claims 24-44 and 53 based on Ramanathan are overcome.

Consequently, reconsideration and withdrawal of the rejections of claims 24-44 and 53 under 35 U.S.C. § 102(a) are respectfully requested.

CONCLUSION

Claims 24-44 and 53 are in condition for allowance. In the event the Examiner disagrees with any of statements appearing above with respect to the disclosure in the cited reference, or references, it is respectfully requested that the Examiner specifically indicate those portions of the reference, or references, providing the basis for a contrary view.

Please charge any additional fees that may be needed, and credit any overpayment, to our Deposit Account No. 50-0320.

In view of the foregoing amendments and remarks, it is believed that all of the claims in this application are patentable and Applicants respectfully request early passage to issue of the present application.

Respectfully submitted,

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A handwritten signature in black ink, appearing to be 'Paul A. Levy', written over a horizontal line.

By: _____

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